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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,493	02/05/2004	Tina L. Bramlett	SNR.P.2220 B	4966

23575 7590 11/29/2004

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EXAMINER
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DIXON, MERRICK L

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 11/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/772,493

Applicant(s)

BRAMLETT ET AL.

Examiner

Merrick Dixon

Art Unit

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on restriction on 11-2-04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 1-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date see office action.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**MERRICK DIXON**  
**PRIMARY EXAMINER**

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The instant office action contains two(2) initialed, signed PTO-1449:

The included PTO-1449 has a date of 2-5-04.

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Applicant's election with traverse of claims 20-37 in the reply filed on 11-2-04 is acknowledged. The traversal is on the ground(s) that merely reciting the preamble of claims 1-20 as the basic for restriction without further explanation does not show distinct and separateness of the proposed groups.. This is not found persuasive because the examiner has established same distinctness and difference via the proposed different classifications required for the groups. Such classifications, it is submitted, would prove burdensome to the office as separate searches are required for each group.

The requirement is still deemed proper and is therefore made FINAL.

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The abstract of the disclosure is objected to because it includes the legal word, "comprising". Correction is required. See MPEP § 608.01(b).

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 20-37 rejected under 35 U.S.C. 103(a) as being unpatentable over Purcell et al(US 5,027,572) in view of Fishel et al(US 5,481,838). The primary reference to Purcell et al teaches the basic claimed invention including a process for adhering a exterior material to a substrate comprising the steps of providing a membrane(18) and attaching it onto a substrate(14), bonding material(28) unto the membrane and bonding member(29) thereto- col 3, lines 38-65; col 4, lines 23-46; fig 3. The reference fails to teach adhesively bonding the membrane to the substrate. The secondary reference to Fishel et al , however teach that it is known in the art to adhesively bond(50) membrane material to building substrate-Fig. 2; col 4, lines 1-60- col 5, line 23. It would have been obvious to one of ordinary skill in the art at the time the invention is made to combine the teachings of the secondary reference to Fishel et al and facilitate the primary reference with adhesive bonding as taught by the secondary reference. Such a combination would have been obvious in the absence of unexpected results and further obvious to better seal the the membrane to the substrate- col 3, lines 60-67. Concerning claims 21-25;27;30,36 and 37, it is submitted that the types material/system used during the claimed process are of no patentable consequences to the instant question for patentability which must be manipulatively distinct. Ex parte Pfeiffer, 1962 C.D. 408(1961). Such material/system , it is submitted, would have been obvious, if not taught and in the absence of unexpected results. Concerning claims 28 and 29, it is submitted that it would have been obvious to adjust the size/thickness of the membrane , depending on desired design. Such adjustment is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237(CCPA 1955). Concerning claim 26, it is submitted that such claimed result effective variable such as weight percent, would have been obvious in the cited references , in the absence of unexpected results and further since it has been held that discovering an optimum value for such result effective variable, involves only routine skill in the art. In re Boesch, 617 F2d 272,205 USPQ 215 (CCPA 1980). Concerning claims 31-35, such claimed properties of the material used during the claimed process, are of no patentable consequences to the instant question for patentability which must be manipulatively distinct. Ex parte Pfeiffer, 1962 C.D. 408(1961). However, it is submitted that it would have been obvious to utilize particular material with particular properties/characteristics , during the patented process of the cited references, in the absence of unexpected results and depending on desired final product properties.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wiercinski et al(5687517)Fishel et al(5318832) and Cochran(6540867).

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Applicants who wish to send a facsimile (draft copies) for the examiner's immediate review can do so by using the Examiner's personal fax number at 571-273-1520. The faxing of all papers must conform with the notice published in the Official Gazette, 1096 O.G. 30 ( November 15, 1989). **NOTE: All facsimiles sent to the examiner's personal fax number should be in draft-forms and will be treated as informal.**

**Same facsimiles will not be entered** in the related applications unless otherwise agreed and noted by the examiner.

**The fax number for all other fascimile is 703-872-9306.**

Information about **the status of an application** may be obtained from the Patent

Information Retrieval system (**Private PAIR**).

Status inquires for **published applications** may be retrieved from either **Private PAIR** or **Public PAIR**. Questions about the PAIR system should be directed to the Electronic Business Center at **866-217-9197**.

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Any questions concerning the instant communication should be directed to Examiner Dixon, at 571-272-1520, Mondays to Thursdays, between 12 noon and 8 PM, eastern time . The examiner's supervisor, Mrs. Rena Dye, can be reached at 571-272-3186.

A handwritten signature in black ink, appearing to read 'Merrick Dixon', with a stylized, flowing script.

Merrick Dixon

Primary Examiner

Group 1700